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Letter to the Right Honour-
able Lord North; on the East-India
Bill now Depending in Parliament

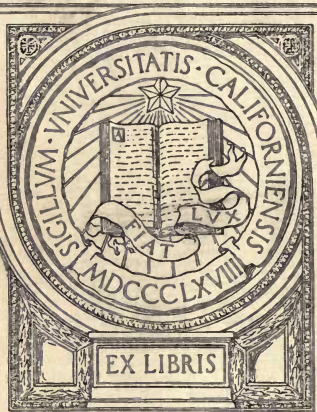
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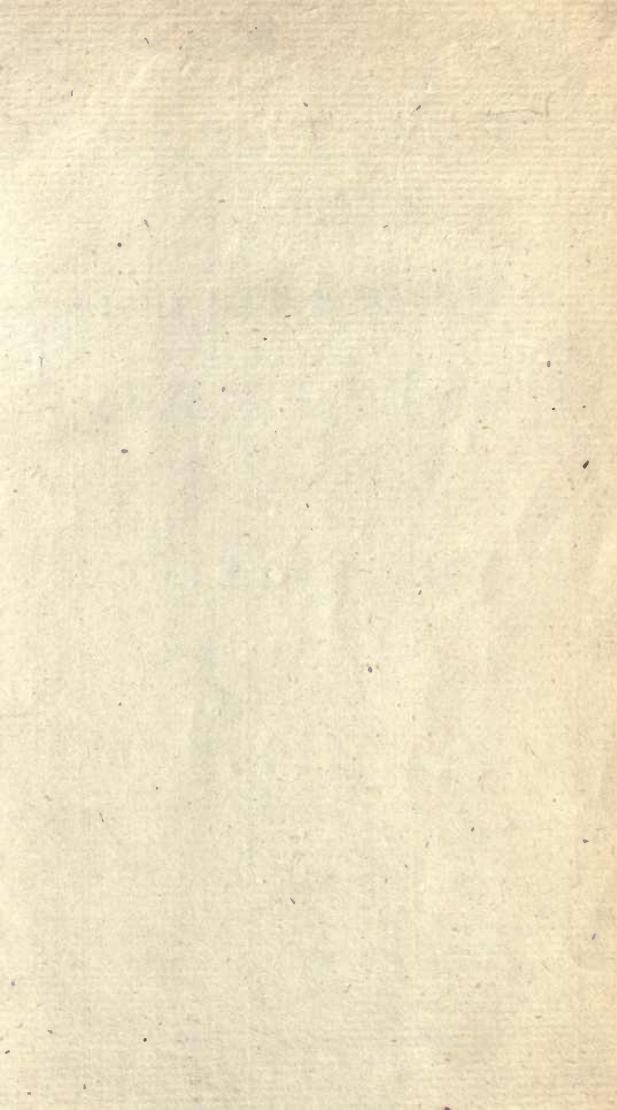
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L E T T E R

TO THE

RIGHT HONOURABLE

LORD NORTH;

ON THE

EAST-INDIA BILL

NOW DEPENDING IN

P A R L I A M E N T.


L O N D O N:

Printed for J. ALMON, in *Piccadilly*, and
BROTHERTON and SEWELL, in *Cornhill*.

MDCCLXXII.

(Price One Shilling.)

TO THE
RIGHT HONORABLE
LORD NORTH
ON THE
AST-INDIA BILL
NOW PENDING IN
PARLIAMENT
LONDON:
Printed by J. G. ALLEN, in Strand, and
BROOKING and CO. in Pall Mall.
MDCCCLXXXIII.
No. 10.



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ADVERTISEMENT.

THAT those attentive to India matters are put to any kind of expence for a perusal of the following hasty performance, such as it may be thought, has been contrary to the inclination of its Author.

Having determined to submit some strictures on the East-India Bill, now depending in Parliament, to the consideration of all who may be interested therein, the Writer of the following pages carried the part of it first written to the Printer of the PUBLIC ADVERTISER; where, after making himself known, he left it, if approved, for insertion in that paper.

About two days after, on a Wednesday, he saw it inserted, with a notice at the end, that the publication would be continued. Upon which he immediately carried another nearly-equal part, and was then informed, that Friday and Monday would be the other days of publication.

A second and a third part accordingly appeared, each with a notice at the end of its intended continuation. But the fourth part not appearing on the day it should have done, the Writer went to the Printer's to enquire the cause thereof; who, immediately on his appearance, had the manuscript returned to him by a Clerk, with this excuse; that Mr. WOODFALL had promised to spare one column of his paper for that purpose, but could not spare two. Nothing farther passed thereon. The instant delivery back of his papers, on the Writer's appearance, the cool civility shewn in doing it, and the insufficiency of the excuse, all served to convince him, that some new motive must have occasioned

A D V E R T I S E M E N T.

fioned so extraordinary a treatment, for the following reasons :

First, That no mention had ever before been made to him of either one or two columns.

Secondly, That all the three numbers published, though not exactly of a length, had much exceeded one column, but neither had filled two.

Thirdly, That the manuscript pages of the fourth part were in number the same as the other three which had been printed.

Fourthly, That it had not been unusual to insert letters of more than two columns in that paper, even on subjects very little interesting to the public.

Fifthly, That the same notice had been subjoined to the third part of the letter as to the former two, that the publication would *be continued*.

Sixthly, That to the very fourth number of the manuscript, so returned, the following notice was actually prefixed by the Writer ; *To be concluded in our Friday's paper* : and,

Seventhly, That there was nothing inserted in the Wednesday's paper, from which it had been so unhand somely excluded, of equal importance, or that was in any material degree deserving of the attention of its readers.

The Writer will not pretend to conjecture what powerful motives Mr. *Woodfall* could be swayed by, after printing three parts of a work, and promising the fourth, to refuse inserting the other two (especially as he had seen, by the Writer's notice to the Public, such was actually to be the extent of it) under so frivolous, ungrounded and unwarrantable a pretence. It has, however, made him determine to publish the whole at all events, in his own justification, and for the satisfaction of the public, though at an expence to the reader which he was desirous of preventing.




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L E T T E R

· T O T H E

Right Hon. Lord NORTH, &c.

MY LORD,

 H E N E V E R measures of high importance to this kingdom are under parliamentary consideration, it is the indisputable right of the people to express their sentiments concerning them, either as collective, or corporate bodies, by instructions, as constituents to their representatives, or by petition to either of the three branches of the Legislature; or else as individuals, by disquisitions or representations from the press.

The times, my Lord, are becoming extremely critical from various alarming causes; and the attention, not only of this whole nation, but of the world, is awakened to what hath already happened, and may farther be expected. How far I may be encouraged to proceed, the experiment will only shew. But at present I shall exercise my right, on behalf

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of my country, by pointing out some imperfections in the Bill at present before the House of Commons “for the better regulation of the affairs of the East India Company,” &c. and I choose to address my remarks to your Lordship on account of the responsibility of the station which you occupy.

While it is my intention to represent boldly, and with strength, I shall carefully endeavour to avoid every appearance of cavil or disingenuity, and therefore my observations will not be very numerous.

The tribunal proposed to be erected in India is a supreme Court of Judicature, which is “to have full power and authority to exercise all civil, criminal and ecclesiastical jurisdiction by the new charter to be granted and committed to the said court; and also shall be at all times a court of record, in the name of a court of oyer and terminer, and gaol-delivery, and shall be a court of oyer and terminer, and gaol delivery, in and for the town of Calcutta, and factory of Fort William in Bengal, and other the factories and places subordinate, or hereafter to be subordinate thereto.” From the decisions of which court there lies no appeal but to his Majesty in Council in England.

The jurisdiction, powers and authorities of this Court are to extend to all the Company’s settlements, factories, subordinates and possessions, now or at any time hereafter to be acquired in the kingdoms or provinces of Bengal, Bahar and Orissa; and to all British subjects and Christians who shall reside in the said provinces

provinces under the protection of the Company. And the natives of India may likewise apply to the said Court against any of his Majesty's subjects in India for any crimes or oppressions whatsoever; to prosecute any suits or actions, real or personal; and also for any debt or complaint of native against native, though the party so pursued should be or have been in the service of the Company.

But on any complaint in writing being exhibited before the President and Council of Fort William against the Chief Justice, or any or either of the Judges of the supreme Court of Judicature, for mal-administration of justice, or any notorious or corrupt breach of duty or trust, then, after due notice being given to the accused party or parties, the Governor and Council are to proceed to a hearing and determination of such complaints, and if unanimous in opinion thereon, they may suspend those convicted, and appoint others to their offices; but the suspended parties have a right to appeal, within a prescribed time, to his Majesty in Council. All Chief Justices and Judges, and all Presidents and Counsellors, are likewise made amenable to his Majesty's Court of King's Bench on their return to England, for any breach of duty, or for any misconduct or misbehaviour in their offices or employments.

Such are the principal regulations intended for the new supreme Court of Judicature in Bengal; on which the few following remarks are submitted to consideration.

First, It does not appear by the Bill, that this supreme Court of Judicature will have sufficient power and authority to restrain the illegal and tyrannous acts of Governors and Councils, from whence all abuses, oppressions and outrages have hitherto originated. The Governor and Council for the time being, in their executive department, or administration, are no other than the deputies of Directors, who are the servants of the Company, who are the deputies of the Sovereign, who is the administrator of every kind of sovereign power in all countries that were acquired, or are possessed by any subjects of this realm; they therefore cannot in any thing be above those laws which are executed by his authority, but must in all things be subject to them; as in executing his trust they in no degree partake of his sacred, impeccable, political character, which in its nature is incommunicable; therefore his sovereign justice must necessarily be superior in its operations to any other kind of power, especially if exercised by such as act under the authority of the delegates of his delegates. When considered in this light, it must appear an absurdity to give an executive Board of Deputies, in a delegated trust, a power to suspend any or all of the Judges of a supreme Court of Judicature on exhibited complaints of the mal-administration of justice, without giving at the same time a power to the supreme Court of Judicature to suspend a Governor, and any or all of the Council, on exhibited accusations of injurious abuses of power

power that are tyrannous and oppressive; but more especially as it must appear reasonable to suppose, that the stations of the latter may be ably filled anew with greater facility than those of the former. Thus will this Bill, if made a law, subject justice in India to a power which it should controul, and secure that unbounded despotism to a Governor and Council which they have hitherto so much abused, though the contrary is pretended to be the great object in view.

Secondly, There does not appear to be any new resource furnished for obtaining justice either against corrupt or wicked Judges, or oppressive Governors and Councils. Prosecutions in the Court of King's Bench, after their arrival in England, can only bring them to punishment; and those have hitherto been experienced to prove ineffectual in many cases of flagrant oppression and injustice. Such processes to parties must always prove extremely chargeable, and precarious in their issue, from the distance of places, the length of time, the influence of power in India, and the difficulty of producing proper evidence; none of which evils are proposed to be removed by the Bill now depending in Parliament, not even by making written proofs, openly given and properly authenticated in India, to have all the force of *viva voce* evidence here, or to compel parties to come over and answer to charges exhibited against them. Till such and other means for obtaining justice in England are furnished by law for injustice and injuries
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that are suffered in India, redresses obtainable by law in England will be few and insignificant. There must, therefore, be established in India a judicial power effectual for the full punishment of all kinds of offenders, or justice will continue there to be more lame than she should be blind: all power will be grossly abused, and all protection but a mere farce. By the Bill now under consideration, the supreme Court of Judicature is manifestly subjected to a more supreme executive Board, which appears intended to be kept seated far above the reach of the laws of England in Bengal.

But, my Lord, it may be asked who are the persons that should chiefly act in, or contribute most to the bringing of offenders in India to justice in Europe, but the Directors of the India Company, who not only act for their constituents, but likewise in trust for the State? The Board of Directors, as deputies of the Company, and agents for Government, ought to be the prosecutors in England of all who have been guilty of criminal practice in Bengal. But then such offenders will chiefly be their relations and friends; the very men who had been sent out to India and there preferred by them, and who durst only venture to act wickedly from a full reliance on their support, by the sacrifice of honour, and to the violation of Justice. These are conclusions rationally drawn from the course of human practice, and which have already been but too frequently illustrated by various examples,

amples, as well in the screening of guilt as the indulgence of malice, by rendering justice ineffectual both for punishment and redress.

In proof of the first charge I appeal to the various cases which we have seen published of unwarrantable and illegal oppressions and outrages that have been practised; to the complainants of which the Directors have hitherto shewn no kind of countenance, either by the punishment of offenders, or redress of the injured; though in both of those measures the good of the kingdom, the welfare of the Company, and their own honour, as men acting responsibly in a station of high trust, were all equally concerned. Heavy charges of disobedience and guilt have even of late been established at their very Board: yet hitherto no judicial proceedings thereon have been seen to take place, in support of their own violated authority, the honour of the Company, or the justice of the kingdom.

I shall now furnish your Lordship with a striking instance, from the proceedings of the very last Board of East India Directors, of the strong aversion those gentlemen are apt unguardedly to discover to such innocent, injured men as apply to the justice of this kingdom against the outrages and oppressions which they had been made to suffer in Asia.

In the early part of last year, as your Lordship cannot but know, his Majesty in Council was pleased, by a solemn decree, to restore Mr. Bolts to his station of Alderman, or Judge of the Mayor's Court of Calcutta, of which
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he had been illegally deprived by the forcible seizure and sudden transportation of his person from Bengal to England, to the almost entire ruin of his own ample fortune, honourably acquired, and with infinite injury done to the concerns of many others that had been placed in his hands.

During the process in England, which was openly and regularly carried on, the Court of Directors, nor any other party, ever once attempted to vindicate the proceedings in India, or to oppose the relief sought by application to the Throne for Justice. His Majesty therefore, by the advice of his Privy Council, replaced Mr. Bolts in his office, and consequently restored to him the privileges annexed to the station of a servant to the Company in India: on which Mr. Bolts applied to the Directors for a passage to be ordered for him to Bengal, and was thereon informed, by their Secretary, that a passage would be ordered for him on board a specified ship; but if he returned thither, he would not there be allowed to carry on any trade.

My Lord, no other than merchants ever yet did or could fill those stations, because the annual income of a Judge of the Honourable Mayor's Court is not sufficient to pay house-rent for one month at Calcutta. An office, therefore, for life in the Company's service must make the means of existing in it a necessary appendage; so that the right of trading was, in effect, virtually annexed to it, and had ever been practised. This inherent right Mr. Bolts

Bolts did enjoy with that office, after he had quitted their commercial service by resignation, on account of repeated, partial and unjust supercessions in preferment. He however held his post of Alderman, and discharged the duties of it with honour: and at the same time, like the rest of his brother Judges, continued to prosecute trade, to the great benefit of that country, the advantage of the Company, and the good of this kingdom; no merchant in that settlement acquiring higher credit, or having superior success. After mentioning these particulars, it may be necessary to inform your Lordship, that this letter is not written by Mr. Bolts, or by his desire or procurement, nor has the manuscript been submitted to his inspection.

Thus, my Lord, have the late India Directors, or at least the managing part of them, audaciously dared to defeat the justice of their Sovereign in Council, the supreme Court of Appeal from India to this kingdom, by rendering his solemn decree from his throne of justice for the restoration of a Judge to his office, because illegally and unjustly deprived of it, ineffectual and impotent; to the dishonour of the Crown, and with violation of the laws, by rendering so sacred an award of no effect; for a restoration to office must be fruitless, if the means of subsisting in it are iniquitously taken away: and for which there could be no pretence grounded, but on such a distinction as, in the opinion of every candid man, would disgrace even a gang of New-
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gate solicitors : for if he had, from spirit and a sense of honour upon ill-usage, resigned his commercial station under them, he continued to occupy another of the highest trust and importance ; in the discharge of which he only could subsist by the privilege and practice of trade, which ever had been, and is to this hour annexed to it in practice ; nay, is what he actually did enjoy to the very moment he was unjustly deprived of that office, and to which of course he must virtually have been restored with it by the solemn judicial decree of his Majesty. Ponder, my Lord, on the insult thus offered to your Sovereign in such a horrid obstruction to national justice, to the violation of every principle of honour ; and then calmly consider if there is not something necessary to be done, highly worthy both of legislative and executive government, as well for retribution to the injured as punishment to the guilty ; one apparent great object at present to both being to establish a permanent system of justice in those very provinces, or kingdoms, now appertaining to the British State, where such horrid outrages have been committed on one hand, and such cruel injuries were suffered on the other ; and for the redress of which latter, as now shewn, even Royal supreme Justice in England has here daringly been rendered ineffectual.

My Lord, justice can never any where be so effectually established as by the making severe examples of such men as, for the serving of wicked purposes, dare to violate, defeat, or obstruct

obstruct it. The object of India is become so interesting to the people of this kingdom, that the attention of all men is now awakened to the measures in agitation concerning it. At many things of which they have heard or read, they feel high indignation; and they impatiently wait for the application of remedies that may prove efficacious for the prevention in future of such oppressions and outrages as have been dishonourable in government to suffer, and disgraceful to human nature in practice. To the injuries Mr. Bolts has been made unjustly to groan under, the public has, perhaps, been beholden for his important informations, supported by such authorities as have given them entire credit. The charges he has produced have not yet been answered; and, indeed, from their very natures they appear to be unanswerable. Facts alledged that are false must be easily refutable; nor could there be wanting materials here for that purpose, had not his been irrefutable. Those, therefore, who say his authorities will be disproved, only mean thereby to deaden accusations which they can by no other means evade. This, my Lord, is the language of the uninfluenced and honest part of the nation; and therefore not undeserving even of the highest attention. And give me leave to remind your Lordship of a truth which you may rely on, that if justice for what is passed should be wholly neglected, there will little reliance be placed on any measures that may be taken for prevention in future.

But to resume my subject, and proceed in my observations on the Bill.

Thirdly, It does not appear upon the face of the Bill, that in the intended supreme Court of Judicature either civil or criminal matters are to be decided by Juries, as there is no mention made of Juries but in the last clause or section but two ; and the whole of that clause is as follows.

“ And be it further enacted by the authority
 “ afore said, that *any offence or offences com-*
 “ *mitted against* THIS ACT, or any of the
 “ clauses, restrictions, and regulations herein
 “ contained, shall and may be sued for and
 “ prosecuted, according to the nature of such
 “ offence or offences, by any person or per-
 “ sons whatsoever, in the said supreme Court
 “ of Judicature to be by the said charter
 “ established ; in which no essoign, wager of
 “ law, or protection, shall be allowed ; and
 “ of all fines, by the said
 “ supreme Court of Judicature inflicted and
 “ imposed by the authority of this act, shall be
 “ to the use of the said United Company, and
 “ thereof to the person or
 “ persons who shall prosecute or sue for the
 “ same ; *all which said offences shall be tried in*
 “ the said Court *by a Jury* of British subjects
 “ resident at Calcutta, and not otherwise.”

On the parts of this clause that are printed in Italics and capitals, the following are the queries of a lawyer :

Query. Under these words what matters are triable by a Jury ? And (*Query*) whether a
 Jury

Jury can try any thing except what is charged to be an offence against this act?

Thus the Bill appears to want explanation. But I have been told by a Proprietor of India Stock, who has connections, I believe, with some Directors, that decisions in the supreme Court of Judicature are not intended to be made by Juries. And as the jurisdiction of this Court is to extend throughout the three provinces, and only Calcutta Juries are mentioned in the quoted clause, we may rationally conclude, that decisions in general are to be made by the Judges, without the intervention of Juries.

Hitherto criminal matters have been always decided by Juries, but others by Judges only. And we have lately had some strange examples produced of judgments given by the latter in India.

My Lord, experience has served every where to demonstrate, and particularly under despotic governments, that reliance can very rarely be made on the integrity of Judges; who, to promote their own interests, will so interpret the laws as to make them answer any purpose; and no government can be more arbitrary than that of Bengal has been, and is likely to continue, for any thing we yet see to the contrary.

If your Lordship will examine the several applications heretofore made by India Directors for extending powers in matters of justice, and what uses have been made of them, there would not need the instance just now produced,
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of the Directors of last year even daring to render ineffectual his Majesty's judicial decree, to convince you that they cannot be safely trusted with any influence over justice in India, which they certainly will acquire if judicial decisions are left entirely to Judges.

Fourthly, The propriety, my Lord, of the prohibitory enactments respecting future Governors, or Presidents and Councils, and the Chief Justices and Judges of the intended supreme Court of Judicature, must be too evident to be disputed. They ought not, nor, as intended, are “ to accept, receive, or take of or from
 “ any Indian princes or powers, or any person
 “ or persons under their dominion, power,
 “ or authority, in any manner, or on any ac-
 “ count whatsoever, any present, gift, donation,
 “ gratuity or reward, pecuniary or otherwise ;
 “ nor shall carry on, or be concerned in, or
 “ have any dealings or transactions by way of
 “ traffic or commerce of any kind whatsoever,
 “ either for his or their use, or for the benefit,
 “ profit, or advantage of any other person or
 “ persons whatsoever, or of any foreign Com-
 “ pany in India, or by way of commission for
 “ any foreign Company, (the trade and com-
 “ merce of the said United Company only
 “ excepted) ; any law, usage or custom to the
 “ contrary thereof in any wise notwithstand-
 “ ing :” and the oath proposed to be taken by
 such parties may be considered as a necessary
 and commendable precaution. The penalties,
 however, to be prescribed for offences in these
 matters, should be made sufficiently severe ; but the

the provisionary clause, which is inserted in favour of such traders as shall hereafter be promoted to stations of government, is too vaguely and indeterminately worded for the effectual prevention of collusive evasion. It should be enacted, that on every such promotion the party advanced in station shall deliver in to the proper officer of the supreme Court of Justice a list, upon oath, of all unconcluded adventures, unfold commodities, and outstanding debts, which list should be registered for the inspection of all men, in order that no new business may be engaged in or carried on under the colour of old dependencies, under large penalties to be inflicted on principals, confederates, agents, servants, or dependents.

The clause for regulating the rate of interest for money in India, if framed with due care, may prove to much public advantage; for nothing can be more hurtful than a toleration of the practice of usury in a country of trade, except the issuing of spurious money, and forcing its currency in any degree, for that is public robbery by the abuse of supreme power. The infamous instance of tyrannical abuse in the latter way that has been produced from Bengal, and which was made a source of continual oppression and rapine to at least some of the then governing people there; and in fact, in the first instance, the coinage was such an abominable piece of roguery, as must leave every one concerned in it without the possibility of excuse, because it could only have been the act of the whole governing body; and
besides

besides being contrary to the express prescriptions of the Company's charter, was likewise a most daring offence against the statute laws of this kingdom, it having been directed by repeated acts of parliament, that no coinages should be made in any of the Company's settlements in India but according to the standards of the respective countries. My Lord, public villainies of this kind must be highly deserving of impeachments or indictments, as well for the due punishment of criminals as *in terrorem* to evil-disposed persons, to intimidate them from engaging in such public robberies hereafter.

It must be right to prohibit the receiving of any present, gift, donation, or reward, pecuniary or otherwise, from Indian powers, ministers, agents, or natives, by any of the Company's servants, civil or military; because, notwithstanding all that has been said to the contrary, it is well known to be directly against the very nature of those people to give any thing consequential but from compulsion, or for the serving of some important purpose of their own. Every boast made therefore of Eastern generosity, from either pure friendship or gratitude, has been undeserving of credit. Such donations could not have been the effects of goodwill, but of menaces, extortions, or excited terrors; extravagant liberality being well-known to be neither a virtue or vice of that country.

It is certainly proper, as proposed by this Bill, to prohibit the holding of any office, post
or

or employment, civil or military, under or by the authority of any state or power in the East-Indies, either European or Indian, by British subjects. But I presume to question if it is either constitutional, just or wise, to prohibit their going to, or residing in such countries, if they are in a state of peace with us, in a merely trading way, though not in their military or marine service, or stations of government; and while they do nothing contrary to the interests of this kingdom, or repugnant to those of the Company: but in case of their doing either of these, they ought to be made answerable for such guilt to the justice of their country. The severest punishments should certainly be inflicted on all British subjects who are assistant in supplying either the native Indians or European foreigners in Asia with arms or ammunition of any kind, or for even dealing in such commodities without express licence from the Company. But persons resigning the Company's service from ill-usage, or without guilt, or free merchants, free mariners, or any other persons who go out with the Company's licence to settle in India, should have a right to continue there as long as they may find it convenient so to do, being made answerable to the justice, and protected by the laws of their country; nor ought they to be there subjected to the arbitrary caprice or base malice of Governors and Councils in India, or to the partial views or wanton power of Directors in England, for being suddenly stopped short in their honest pursuits; perhaps from hatred of their merits, or envy of such

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abilities,

abilities, as, without injury to the Company, their adversaries may find are advancing their particular fortunes with the real interests of this kingdom.

When men go from hence to settle in India, they naturally relinquish all prospects in Europe, but that of returning to enjoy the fortunes they may acquire; in doing which they act for the interest of this country and the Company, as well as of themselves. And wherever Englishmen govern, and English laws are established, the just and full protection of the latter is the equal right of all against every species of oppression or violence: and surely none can be greater than an unmerited arbitrary order to go, on a sudden, from one extreme part of the globe to the other. My Lord, it can be no other than damnable power, and diabolical justice, to tear a man from all his prospects, perhaps, in a great degree, from all his property, and forcibly to transport him, without conviction of a crime. No government that is honest will delegate such a power; and no men, but of the worst kind, would abuse it in practice. A man that is warranted to go from hence to India, goes thither now to the country of Englishmen, and carries with him a right to the full protection of the laws of this kingdom. If his country can prove guilt on him there, or the Company injury, let him be fairly tried for either by a Jury of his peers, and be acquitted or convicted according to law: but let the law otherwise protect him from the punishment of a felon, and not suffer him, in
a country

a country that is subject to his Sovereign, to be treated in such a manner as the Company cannot be authorised to treat innocent aliens.

It must be equally for the security and prosperity of those countries, and the advantage alike of the Company and this kingdom, that British subjects should be encouraged to settle therein, not only for their defence, but likewise for the improvement of their commerce ; as no trade can be carried on between them and the other countries of Asia, but to their infinite benefit. Let, however, the European trade with them be confined to the European Companies, at least for the present ; but wisely leave that of Asia open to whomsoever will engage in it ; as the sure consequences thereof must be the streaming of great wealth into Bengal, of which England may avail herself for that most necessary of all purposes, the retrieval of her circumstances ; without which, her very security, as well as her power, will henceforth be precarious.

Free-traders of all countries, if not our national enemies, or our rivals in Europe, should by every good means be encouraged not only to deal with, but also settle in the provinces of Bengal, Bahar and Orissa. They can carry on no trade without adding to the wealth of them ; and their residence therein for the security of their own property will naturally contribute much to the increase of their strength. All men will act resolutely where they have property to defend, and interests to preserve ; such

being the most powerful of all attachments, and the most stimulative of all incentives.

The articles which the India Company impose on their servants, or such as go to settle in Asia under their protection, of not availing themselves of the laws of their country for redress for suffered violence or oppression, or of being compellable to quit the country by force, after a year's notice had been given them to depart, though for no better assigned reason, than that it was not convenient for the Company they should continue longer there, must in their very natures be illegal, because highly unjust. No compact can be lawfully binding in which convenience is not reciprocal; and there must be implied in all a tie of indispensable honour in the discharge of respective duties. No man who has not done a public or private injury ought, or constitutionally can be compellable to suffer any grievous punishment. Let not laws, therefore, be made to sanction practical tyranny, or to destroy the rights of nature, the bulwarks of social security and the very ends as well as essence of all compacts. While the Company had only forts to protect them for prosecuting trade in the countries of foreign princes, in regions very remote from their own country, there might at least have been some colourable plea urged, from necessity, for stretching power a little beyond the constitutional line in support of needful authority, and for the security of hazarded property in the hands of servants and dependents. But now, when those distant territories

territories are annexed to the British state, an act to establish the English laws in those countries, to be administered by an English supreme Court of Judicature, should convey thither the most ample powers both for legal protection and punishment.

Any compacts that are not executable in England, should not be suffered to be executed in the Bengal provinces: and I must presume to suppose that no man can bind himself here to submit to an arbitrary transportation at the will, or for the convenience of any master or patron, if he has done nothing to forfeit the protection of the laws: and surely no one by compact should be made transportable from India to his prejudice, perhaps his ruin, without at least the decision of a Jury, that his continuance there would be greatly hurtful or dangerous; because a contrary practice cannot be English justice, but intolerable oppression, and detestable tyranny; such as would justify resistance by every possible means, even the most desperate that can be imagined, when pushed to the last extremity. Indeed, my Lord, remote provinces must be ruled by better principles of policy, or they can never flourish, nor will the possession of them be secure.

Fifthly, It cannot be deemed improper, that any man in the Company's service, who shall be found guilty of extortion, breach of public trust, embezzlement of public money or stores; or of defrauding the Company, or carrying on any monopoly, after being duly convicted, and the sentence of the Court in part inflicted, should

should be sent over, or transported to England, if it be part of his sentence so to suffer.

But as in most of the others, so in the clause now under consideration, (pages 11 and 12 of the printed Bill) there are great exceptions to be made to its contents in their present form, some of which are as follow :

The clause mentions conviction, by the judgment of any Court of Judicature, to be sufficient for warranting the President and Council to immediately send over such convict to England ; and moreover, that every such offender shall be, and is hereby declared to be ———

Now the words *any Court* must imply, that there actually will be more Courts for criminal judicature than one in Calcutta, which will have the power of inflicting severe punishments on British subjects, or other Europeans, for I must suppose no Asiatics will be banished to this country : and as we know of no other criminal Court intended to be established in Bengal, to which British subjects will be amenable for crimes, except that of a Quarter Sessions, to be held by the Governor and Council, as Justices of the Peace ; why should not the power of passing sentences of transportation from India to England, be expressly confined to the supreme Court of Judicature alone ?

The crimes mentioned in this clause are of more than ordinary turpitude : and, as we may suppose, the punishments to be inflicted on such offenders, will be fines and imprisonments in India, or fines and transportation to Europe :

and

and as in the latter case especially it is reasonable to suppose, that such culprits will not be the most insignificant of people; it may be remarked, (and should be with respect even to beggars) that in all such causes the President and Council will be prosecutors, therefore parties, like the Sovereign in England; and by their authority too, as by his Majesty's here, the sentence pronounced on them will be carried into execution. Surely, then, the executive power there, any more than here, ought not to be suffered likewise to be the criminal Judge; because his so being would make that heterogeneous junction, or tyrannical monster, of Party, Judge and Executioner, whether as an individual, or body of men; which cannot be constitutional, because destructive of justice, by the union of such powers as would establish a complete tyranny. And surely, for perfecting justice at such a distance from the seat of supreme Government, it would not be an improper precaution, expressly to proportion the degrees of fines to the extents of the frauds committed, or monies illicitly or unlawfully acquired; and more especially when annexed to the punishment of banishment, or transportation from one extreme part of the globe to the other.

In England Magistrates hold Quarter Sessions, and can, and do inflict corporal and other punishments; such as light fines, whipping, pillory, imprisonment, and even transportation: but then, while the Sovereign, by his deputies, is the prosecutor and executor
of

of justice, the parties accused are always judged by their peers. Such, likewise, should invariably be made the practice in India; nor ought any but the most perfectly constitutional punishments to be inflictible by the executive magistracy at their Quarter Sessions in Calcutta. These matters, therefore, are highly necessary to be fully explained in the proposed act; and no opening left for Directors to steal into the hands of those whom they may place in the executive trust in Bengal, any power to be such tyrants and oppressors as they have been of late years, by the framing of such charters and laws of justice as they hitherto have contrived to obtain. As to the blank left to be filled up at the end of this clause, the Directors can only tell in what manner they wish it to be done: but if they mean to extend any punishment beyond the express letter of the sentence, or act of transportation, farther than of disqualification for their future service, it most probably is such as would be illegal.

Sixthly, Respecting the clause for prohibiting any releasement from, or compounding of debts, or penalties for crimes committed, on which judgment has been given in England or India, or for stopping prosecutions, suits, or actions commenced for any kind of offences, I shall only observe, that if it does not extend to any kind of prosecutions commenced after the punishment of transportation had taken place, in consequence of a trial in India, it may not be improper. But if a person sentenced to pay a fine in India, has not effects there

to

to be seized for the discharge of it, after he had been transported to England, he ought not to be made liable to prosecution for it in this country, nor for any thing else concerning what he had been convicted of in Asia. All justice pursued in those regions ought to be there effectually and finally compleated; or at least so far as to the very act of sending transports away, by which the sentence will be there executed as far as can be done: even high treason, which has not been triable there yet, ought in future so to be. But with regard to penalties incurred from suits or actions first commenced here, there appears to be nothing exceptionable in the clause.

Seventhly, The clause for authorising “ the
 “ President and Council of Fort William to
 “ make and issue such rules, ordinances, and
 “ regulations for the good order and civil go-
 “ vernment of the said United Company’s
 “ settlement at Fort William aforesaid, and
 “ other factories and places subordinate, or to
 “ be subordinate thereto, as shall be deemed
 “ just and reasonable, (such rules, ordinances,
 “ and regulations not being repugnant to the
 “ laws of this realm) and also impose and levy
 “ all necessary and reasonable imposts and
 “ duties on commerce and trade, for the sup-
 “ port of the said United Company’s civil
 “ government in Bengal, and to set, impose,
 “ inflict, and levy fines and forfeitures for the
 “ breach or non-observance of such rules,
 “ ordinances, regulations, rates and duties;
 “ but nevertheless the same, or any of them,
 E “ shall

“ shall not be valid, or of any force or effect,
 “ until the same shall be duly registered in the
 “ said supreme Court of Judicature, to be by
 “ the said charter established, with the con-
 “ sent and approbation of the said Court ; and
 “ from and immediately after the registering
 “ thereof, as aforesaid, the same shall be good
 “ and valid in law : but nevertheless it shall
 “ be lawful for any person or persons to appeal
 “ therefrom to his Majesty, his heirs or suc-
 “ cessors, in Council in England, so as such
 “ appeal, or notice thereof be lodged in the
 “ said new Court of Judicature, within the
 “ space of days after the time of re-
 “ gistering such rules, ordinances, regulations,
 “ rates or duties : yet nevertheless, such ap-
 “ peal shall not obstruct, impede, or hinder
 “ the immediate execution of any rule, ordi-
 “ nance, regulation, rate or duty, so made
 “ and registered as aforesaid, until the same
 “ shall appear to have been quashed or vacated
 “ upon the hearing and determination of such
 “ appeal.”

On this compleat junction of legislative and
 executive tyranny, the following observations,
 made in order, are submitted to the considera-
 tion of your Lordship and the Public.

V Hitherto the India Company, or rather the
 Court of Proprietors, has been entrusted with
 powers to make bye-laws, for regulating a
 trade in which their own property was em-
 barked, and for the good government of the
 servants whom they had in their employ. But
 by this clause it is proposed to place an arbi-
 trary

trary power, to be exercised at will, in the hands of the deputies in India of the Company's deputies, the Directors in London, to make ordinances or laws, and to establish fines and forfeitures for the non-observance of them; and likewise to impose and levy such imposts and duties as *they shall think necessary and reasonable*, not only on British subjects in the service, or under the protection of the Company, but likewise on commerce and trade: which must greatly affect fifteen millions of Indian people, now the subjects of his Majesty, the people of other countries resident in any of those three provinces, all the countries of Asia, the factories, and, in effect, the commerce of other European nations, with whom embroils must thereby be hazarded; and without any other check than the Judges of the supreme Court of Justice, who can, if they so please, refuse to admit their being registered.

These respective powers, which are intended to be entrusted with the Executive Presidential, and the Judiciary Boards, will have a natural tendency to establish a common interest between those parties which should act as strong checks on each other: and they, by co-operation, may effectually pursue it to all lengths with impunity, unless the infliction of punishments of every kind, but military, be restricted to the supreme Court of Judicature alone, and therein to be decided entirely by Juries. Nor can it be expected, with such powers in their hands, but that they will be continually seeking occasions for raising money, even by the most op-

✓ pressive means, for the sake of advantages to be reaped from its expenditure. My Lord, temptations to collusion ought effectually to be prevented, or they will prove destructive of all order and good government, and, in the event, ruinous to those countries, the Company, and this kingdom. The power of laying on new taxes should not even be entrusted with the Company itself, and much less with its substitutes, either in Europe or Asia. The Moguls rarely exercised it there in the highest plenitude of their power: and all kinds of taxations upon a trade of exports in manufactures will, in their effects, every where prove fatal. They are so operating in England now, in conjunction with taxations by landlords, as your Lordship, the parliament, and the whole kingdom may readily see, by the prices of gold and silver bullion, the condition of the coinages, and the state of real money among us: and they will much sooner ruin India, (where a paper substitute will never do) if the Company's servants are there suffered to burthen the people as they please.

✓ In many kinds of taxation, experience can only shew the effects of their operations: for which reason, and from considering the extents of those provinces, it must be contrary to sound policy, and the reverse of true justice, to limit the rights of appeal to any number of days after the laying on of such imposts. Whenever taxes may be found indispensibly necessary to be raised, all projected means for imposing them should be openly discussed in India,
in

in order that the objections which can be made, may be transmitted with them to England, for the consideration of the Court of Proprietors; which Court alone should have the power of making bye-laws, or establishing taxations, under the inspection and controul of his Majesty in Council, if not of the Parliament, and with such concurrence only carried into execution. Laws ought not to be first executed, or taxes levied in countries so remote from the seat of supreme government, and then considered of here; because such evils will be likely from thence to arise, as may afterwards be found beyond the reach of any remedies to remove.

Be extremely cautious, my Lord, of throwing unlimited powers into the hands of any kind of adventurers, in countries at such a distance, whose fixed object must be the rapid acquisition of fortune. And who, in India, will dare to remonstrate against any measures of men that can instantly effect their ruin by banishment from the country, (if the executive and judicial powers act in confederacy, as the authorities proposed will not only enable, but likewise encourage them to do) unless protected by efficient laws in so doing? The first attention of such rulers, your Lordship may depend, will be how to make the utmost they possibly can, if left to the mercy and conscience of them for so doing.

Having finished the observations I undertook to make on the East-India Bill that is depending in parliament, I shall now subjoin some considerations

considerations on the present state of the Bengal provinces, as likewise on that of the Company, and of this kingdom ; and then conclude with some cursory remarks.

The unanswered public representations which have been made of the various illegal, oppressive and tyrannical powers that have been long exercised in Bengal, can require no farther confirmation than the very application of the Board of East-India Directors for a new charter of justice, to prevent them in future. Indeed, from the several allegations, charges, and proofs that have been produced, no rational doubt can be entertained of there having been horrid abuses and violences practised, as well in judicial proceedings, as by executive power in India ; to the infinite wrong, not only of fifteen millions of defenceless natives, but likewise to numbers of traders and settlers of the countries of Asia, and many of his Majesty's European subjects. In short, the present state of those provinces is, that of great want of money, from the exhausting draughts which have been made from them by the Company and their servants, and by ill policy, in embarrassing, and in effect shutting up the many channels of Eastern trade, which used to pour abundance of wealth into those countries ; a great depopulation, from the discouragement of industry by oppression ; and a very powerful neighbour, watchful to reap every advantage from the effects of ill policy and bad government ; with European rivals, made enemies from disgust, as well as by jealousy, who will be ready to assist

assist in the accomplishment of our destruction on that quarter of the globe.

The East-India Company, my Lord, were not instituted for the governing of extensive dominions, nor are they qualified for so doing. They were incorporated for the sole purpose of prosecuting a single branch of national trade: and whether considered in their legislative or executive capacity, the degree of their real property in stock, their situations in the community, or by any specimens we have had of their principles or talents, they may certainly be pronounced unequal to the executing of so important a trust. The known instances of their not prosecuting great offenders to justice, and of their not granting redress to the most cruelly injured; but above all, the instance produced by myself, of their daring even to render ineffectual their Sovereign's judicial decree, made in the supreme Court of Appeal from India to this kingdom, for restoring a Judge to his office, from which he had been illegally forced even into an unjust banishment, are, with the actual state of their affairs both in Asia and Europe, such proofs of their unworthiness, as well as incapacity, as must warrant our pronouncing them unequal to so great a charge.

From the extraordinary changes that have happened in their affairs, the proprietary community have been made to sink into subserviency to their executive servants. By the extent of intrigue, the powers of combination, and the immensely augmented means of gratification,

tification, both in India and in England, Directors, my Lord, have really become enabled to be their own creators to, and likewise protectors in the arbitrary government of more people than can be found in the whole British dominions that are under the immediate administration of the Crown. They mayal most be considered as the rivals of the Sovereign and Parliament of this kingdom: and should they continue in the course they are now pursuing, with the increasing aid of imported wealthy relations, dependents, and the means of corruption, they may bid fair in a short time to be the makers of parliamentary majorities, and, by degrees, also of parliaments; nay, possibly, at last, they may aspire at making Kings in Europe as well as in Asia; when, by the help of their Hindostan policy, they may, in effect, make Leadenhall-street the seat of supreme government over all the British dominions on every quarter of the globe.

It is impossible, my Lord, in contemplating on this subject, not to recollect the power acquired in Italy, near two thousand years ago, by the Roman spoilers of the East, that inexhaustible source of riches to conquerors from the remotest ages of which we read. And though, in many things, the apprehensions that have been mentioned may be considered as extravagant, yet certainly many evils may be dreaded, either from the misapplication of Indian wealth, or, in the present unprosperous state of our other national trade in general, from the unfortunate loss of that supply in
future,

future, by inattention or mismanagement; for England may be made, in either way, to hazard wonderful difficulties, if not sudden ruin.

The serious part of the people of this kingdom, from observing how causes operate, are already framing extraordinary opinions on the prospects of approaching times, as well from the unbounded power of corruption on one hand, as from a visible extreme promptitude to venality and prostitution on the other, owing to the taste and turn of our over-highly polished age. Soon after the revolution, my Lord, the respective Directors of two different India Companies, with their own property only, found themselves able to bribe King, Parliament, and in effect to coufin the whole nation, to grant and admit their acquiring two such charters as in their powers were incompatible with each other, and consequently in their existence illegal, though warranted by acts of parliament; and from law, as it was at least pretended, they derived effectual support. What then may not the joint efforts of those since-united Companies hereafter accomplish, with the power of plundering fifteen millions of people, added to the enormous profits of exclusive trade? Though partly painted in perspective, the fore, or near ground of this picture, my Lord, is charged sufficiently with objects that are well worthy of attention.

This kingdom, with all its possessions, prospects and boasted state of prosperity and happiness, is unquestionably in a dangerous,

an alarming situation ; of which the following facts are indubitable proofs.

Our trade in exported manufactures, and especially for Europe, has so very much decreased, and therefrom the balances of trade have so greatly turned against us, that we are now in apparent want, and likely to be soon destitute of real money in circulation.

The state of our coinages has become such, from the high rates of gold and silver bullion, owing to the decay of our trade of exports, that no silver coinages of his present Majesty have been made, at least none have appeared in circulation ; nor, if they did, would they continue therein ; as great profits can be made by melting them down for sale as bullion, or for exports to pay debts or dividends on the continent. Gold coinages, as your Lordship must know, cannot, likewise, be made but very greatly to loss ; the coinage price being three pounds seventeen shillings and ten pence halfpenny an ounce, and the price of bullion at present four pounds and one shilling. It has been a long time fluctuating between the rates of three pounds nineteen shillings, and four pounds one shilling and six-pence. I dare then to ask your Lordship, the Bank Directors, and both Houses of Parliament, if they are skilled in such matters, if things can possibly long continue to go on at this rate ; or if they could have gone on to this time, but for the resources of Bengal ? And those have been drained dry by one channel or another ; inso-

much,

much, that both those countries and these are now in great danger therefrom. No precautions of Bank Directors or of Government can prevent coin being carried out of the kingdom, while we have balances to pay; and all created difficulties or dangers will only serve to increase the quantities so parted with. There is but one efficient remedy to cure the evil; which is that of taking care to have few balances to pay. This can only be done by lowering the prices of our manufactures, for procuring them sale at foreign markets. In order to do which, the land-rents of the kingdom must be reduced to the standard they were at forty years ago; the farms re-divided, and their plundered rights of commonage restored to the people. Ridiculous and impudent are the pleas of improvement, with public robberies, into national want and depopulation.

Sufficient proofs have been given of a great decrease in the gross number of the people: that of vagrant paupers is every where obviously augmenting, and parish rates have been long growing enormously burthensome. The people are driven by want to desperation at this very time, equally in England, in Scotland, and in Ireland; and there are now great desertions from all, but particularly the two latter countries. The act for regulating the prices of grain will have mischievous effects. Its dam and its wier are a dream and a vision: and the medium price it is designed to establish

is an estimation of gross ignorance, with respect to the ordinary, or even extraordinary prices of Europe: so that, if the maintenance of it is persisted in, it will soon operate to the destruction of every yet-existing manufactory of the kingdom for exportation, and probably bury your Lordship, with Mr. Arthur Young, for ever under the ruins of your country.

Such, my Lord, is the actual condition at present of this kingdom: and I dare your Lordship, the Parliament, Bank, Royal Exchange, or the whole nation fairly to undertake the disapproval of it. There are, however, undoubtedly wise measures to be taken, that would effectually operate for our national redemption; but I fear a want of honesty will prevent their being adopted or pursued.

But farther, with regard to the India Bill, in every light in which it can be viewed, the appearance will be strong of its being calculated rather for the increase than diminution of despotism in Bengal. Unless all decisions of importance are made by Juries, there will no impartial justice be administered in those countries: nor, without great freedom and full security in trade, can the Bengal provinces ever again be made so flourishing as to be able to enrich this kingdom by any other means than the imported fortunes of successive spoilers, oppressors and tyrants.

It will be ill policy to permit the Company to aim at engrossing the trade of Bengal even with Europe, or to bury the revenues of those countries

countries in dead stock at home; with straining their credit to make burthensome importations, to the loss of much interest of money, the increase of expences, and at the risk of great injury from goods perishing in warehouses. Were the Asiatic and other commerce more encouraged with those provinces, they would soon abound with money; when, instead of over-imports of merchandize, the Company might make moderate ones of bullion, for the supply of our markets, where it has long been the scarcest commodity known in this kingdom.

It is a prevailing opinion, that government cannot be entrusted with the administration of those provinces, though the right must be the same as for those of America. I wave discussion of the subject; and am sorry that government appears in so disgraceful a light. But with regard to the interests of those countries and the British state, the matter is certainly not mended by leaving it in the hands of East-India Directors, for their sway is by corruption: and the corruptions of Leadenhall-street may, perhaps, easily be made auxiliaries to those in higher places. But with regard to the subjected Asiatics, and even the generality of Europeans, surely nothing can exceed the frauds, iniquities and tyrannies of their double, let me say treble governments.

But if those unhappy countries must continue farmed to the Company, with their revenues of many millions, for what may be considered

considered as a miserable quit-rent, the preservation of their possession should at least be considered as an object of such importance to the state, as to cause a watchful eye, on the part of government, to be kept steadily fixed on the conduct of those who are deputed to rule them. I must, therefore, presume to think, that it should be deemed needful for his Majesty to have always a resident Minister at Calcutta, for furnishing him with regular information of the state and prospect of affairs in those countries; and likewise of the political measures of the Governor and Council, with also the proceedings of the supreme Court of Judicature; in order that proper checks may be timely given to all rising abuses, and that the whole machine of government may be secured against destruction from disorder.

The expence of such a resident Minister in India need not be made materially burthensome to government. His requisite qualifications must be competent understanding, integrity, and a considerable knowledge of the interests and language of those countries. The possessing of these latter must make it necessary that he should previously have lived in Bengal, either in the service, or under the protection of the Company: and having been in such a station, a moderate salary, with the privilege of licit trade with the countries of Asia, but answerable to justice for engaging in any other, would be a sufficient compensation for the discharge of his duty. He should, however,
have

have all the personal sacredness and security of an Ambassador ; and likewise a seat and vote in all Councils assembled on matters of government and policy, but not in those for mere trade.

Imagine not, my Lord, that I have been proposing the institution of an office with the least view to occupy it myself. I have not addressed you in the stile of a suitor ; and, having never been in India, cannot be qualified for the employment. But I think policy, honour and justice may direct you at present to the choice of a man, of whom the public will perhaps be inclined to think more favourably than of any other.

I am, with great respect,

My LORD,

Your Lordship's most obedient,

humble servant,

(32)

have all the personal business and to leave of
an Ambassador; and likewise a letter and vote
in all Councils interested on matters of govern-
ment and policy, but not in those for mere
trade.

Imagine not, my Lord, that I have been
proposing the institution of an office with the
least view to occupy it myself. I have not
addressed you in the face of a letter; and
having never been in Italy, cannot be qualified
for the employment. But I think highly
honour and justice require that you should be
the choice of a man, of whom the public will
perhaps be inclined to think more favourably
than of myself.

I am, with great respect,

My Lord,

Your Lordship's most obedient

humble servant

John Carter

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